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BEFORE THE
BOARD OF REGISTERED NURSING DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
In the Matter of the Accusation Against: Case No. 2013-586
NITAJEAN M. LOPEZ, AKA NITA JEAN MARTINEZ LOPEZ
20002 Jersey Avenue A C C U S A T I O N
Lakewood, CA 90715
Registered Nurse License No. 437099
Respondent.
Complainant alleges:
<u>PARTIES</u>
1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
official capacity as the Executive Officer of the Board of Registered Nursing (Board),
Department of Consumer Affairs.
2. On or about March 31, 1989, the Board issued Registered Nurse License Number
437099 to Nitajean M. Lopez, aka Nita Jean Martinez Lopez (Respondent). The Registered
Nurse License was in full force and effect at all times relevant to the charges brought herein and
will expire on March 31, 2013, unless renewed.
JURISDICTION
3. This Accusation is brought before the Board under the authority of the following
laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
 - 6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 1442, states:

"As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life."

8. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

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9. California Code of Regulations, title 16, section 1443.5 states:

"A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

- "(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.
- "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.
- "(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.
- "(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.
- "(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.
- "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided."

COST RECOVERY PROVISION

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

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renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

PATIENT D.G.

- From about 1998 to 2010, Respondent was employed as a registered nurse at the 11. Metropolitan State Hospital in Norwalk, California. On or about January 29, 2010, Respondent was assigned as the Floor and Documentation Nurse in Unit 418 to care for Patient D.G. Her primary responsibilities included, but were not limited to, assessing and documenting the patient's condition.
- At about 0930 hours, while assisting RN Concepcion with Patient D.G.'s incontinent care, Patient D.G. was observed to be making rapid and shallow breathings with his mouth, his lips were slightly bluish in color, his skin color was pale, and his hands were cold to touch. Respondent also noted that the patient's abdomen was tender and bloated. His stool was blackish, soft and with a foul odor. During the incontinent care, Patient D.G. was noted to have a syncopal episode, briefly losing consciousness and then recovering. RN Concepcion took the patient's vital signs in Respondent's presence, which were: pulse 104; respirations 24; blood pressure 124/74; and his oxygen saturation (O2 sat.) was 89% with room air. The patient was given 2 liters of oxygen via nasal cannula. At about 0940 hours, Respondent notified Dr. Tuyen Le, the attending physician, of the patient's change in condition. Dr. Le instructed the staff to call 911, but later cancelled the directive after he examined the patient. Dr. Le ordered hourly vital sign readings until 1400 hours.
- At about 1000 hours, Respondent took a break and left the patient's room. At about 1200 hours, Respondent was assigned to check Patient D.G.'s diaper but she did not make any other observations of the patient.
 - 14. At about 1100 hours, Dr. Le ordered laboratory works to be performed.
- The following are Patient D.G.'s laboratory results and vital sign readings taken by a 15. psychiatric technician/treatment nurse:
 - At about 0945 hours, pulse 104, respiration 24, O2 sat. 96; a.
 - At about 1045 hours, pulse 121, respiration 28, O2 sat. 94; Ъ.

1	c. Respondent failed to report the key clinical data she had observed, measured and
2	assessed of Patient D.G. to her shift lead or the Health Services Specialist or other supervisory
3	clinicians.
4	SECOND CAUSE FOR DISCIPLINE
5	(Incompetence)
6	21. Respondent is subject to disciplinary action under Code section 2761, subdivision
7	(a)(1), in conjunction with California Code of Regulations, title 16, section 1443, in that on or
8	about January 29, 2010, she demonstrated incompetence in her care of Patient D.G. Complainan
9	refers to and incorporates all the allegations contained in paragraphs $11-20$, as though set forth
10	fully.
11	<u>PRAYER</u>
12	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13	and that following the hearing, the Board of Registered Nursing issue a decision:
14	1. Revoking or suspending Registered Nurse License Number 437099, issued to
15	Nitajean M. Lopez, aka Nita Jean Martinez Lopez;
16	2. Ordering Nitajean M. Lopez, aka Nita Jean Martinez Lopez to pay the Board of
17	Registered Nursing the reasonable costs of the investigation and enforcement of this case,
18	pursuant to Business and Professions Code section 125.3;
19	3. Taking such other and further action as deemed necessary and proper.
20	DATED: JANUARY 25, 2013 Louise R. Bailey
21	LOUISE R. BAILEY, M.ED., RN
22	Executive Officer Board of Registered Nursing
23	Department of Consumer Affairs State of California
24	Complainant
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